



THE COUNCIL
OF THE CITY OF NEW YORK
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NICOLE BENJAMIN
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Via Regular Mail & Email

February 26, 2019

Charise L. Terry, PHR
Executive Director
NYC Equal Employment Practices Commission
253 Broadway, Ste. 602
New York, NY 10007

Re: Sexual Harassment Prevention and Response Practices

Dear Ms. Terry,

We are in receipt of letters dated January 31, 2019 and February 11, 2019, wherein the Equal Employment Practices Commission (“EEPC”) has requested to commence an audit of the New York City Council’s (the “Council”) sexual harassment prevention and response practices. EEPC indicates that said audit is authorized by Chapter 36, Sections 830(a), 831(d)(2) and (5) and 832 (c) of the New York City Charter (the “Charter”).

While the Council shares the goals of EEPC and is fully dedicated to maintaining a workplace that is free from employment discrimination and harassment, we cannot submit to an audit pursuant to the aforementioned sections of the Charter. EEPC does not have jurisdiction over the Council under the Charter, which does not empower or grant EEPC authority over the Council to audit, review, evaluate and/or monitor the City’s legislative body. However, as part of our commitment to promote diversity, equity and inclusion in the workplace we welcome the opportunity to work with EEPC.

Accordingly, while the Council maintains our objection to EEPC’s purported jurisdiction under the Charter, we hope to work with EEPC on a volunteer basis to receive your input/suggestions on how the Council can continue to maintain equal employment opportunities and to further reinforce the Council’s commitment to the same.

Respectfully,

Nicole Benjamin
Chief Diversity & EEO Officer

c: Menelik Allsop, EEO Program Analyst



Vacant
Chair

Angela Cabrera
Malini Cadambi Daniel
Elaine S. Reiss, Esq.
Arva R. Rice
Commissioners

Charise L. Terry, PHR
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BY MAIL AND EMAIL

March 14, 2019

Honorable Corey Johnson
Speaker
The Council of the City of New York
City Hall
New York, New York 10007

**Re: Equal Employment Practices Commission's Audit and
Monitoring of the New York City Council's Sexual Harassment
Prevention and Response Practices**

Dear Speaker Johnson:

On behalf of the Equal Employment Practices Commission (EEPC), I write in response to the February 26, 2019 correspondence from the New York City Council's (Council) Principal EEO Professional, who inaccurately asserted that the EEPC lacks jurisdiction to audit the Council's sexual harassment prevention and response practices. Contrary to this assertion, the New York City (Charter) vests the EEPC with broad authority to audit, review, evaluate, and monitor the employment procedures, practices and programs of city agencies and other municipal entities, including the Council.

Charter Chapter 36, Sections 830(a), 831(a), (d)(2) and (5), and 832 authorize the EEPC to audit, review, evaluate, and monitor the employment procedures, practices and programs of City agencies and other municipal entities (hereinafter "entities") and their efforts to ensure fair and effective equal employment opportunity (EEO) for minority group members and women who are employed or seek employment; to recommend practices, procedures, approaches, measures, standards, and programs to be utilized by such entities in these efforts; and to monitor the implementation of resulting corrective action, if any.

To perform mandated functions, the Charter explicitly vests the EEPC with broad jurisdiction, which extends to "each city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other agency of government, where the majority of the board members of such agency are appointed by the mayor or **serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury. . .**" (Charter Chapter 36, Section 831(a) emphasis added). Charter Chapter 52, Section 1150(2) specifically defines "agency" as "a city, county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the city treasury." The Council falls squarely



within the Charter's definition of an agency under the EEPC's jurisdiction as its fifty-one (51) elected council members are city officers, and its expenses are paid from the City treasury.

The EEPC's jurisdiction to audit the Council's employment practices was revived by the Council in 2015. At that time, the EEPC requested, and shared with the Council, the Corporation Counsel's conclusion regarding whether the Council's employment practices and policies were subject to audit, evaluation, and monitoring by the EEPC. Corporation Counsel concluded that the Council is an "agency" of the City as defined by Charter Chapter 36, Section 831(a) and Chapter 52, Section 1150 as its members serve by virtue of being city officers, and its expenses are paid from the City treasury. In addition, the Council's employees have City employment status, receive salaries from the City of New York, participate in the New York City Employees' Retirement System, are represented by the Corporation Counsel, are indemnified as City employees under the General Municipal Law, and are subject to the same duties and benefits of City government employment as other City employees. As a result, the Council falls under the EEPC's jurisdiction and the EEPC is authorized to audit, evaluate, and monitor the Council's employment procedures, practices, and programs. A copy of Corporation Counsel's 2015 Memorandum regarding the EEPC's jurisdiction over the Council is attached for your reference.

As the EEPC's audits do not interfere with the Council's performance of its legislative duties, powers, and functions, and as established above, the EEPC looks forward to working with the Council's EEO representatives during the current Sexual Harassment Prevention and Response Practices Audit. The EEPC sent the Council's Principal EEO Professional, Nicole Benjamin, online Preliminary Interview Questionnaires (PIQs) for the abovementioned audit. Because the abovementioned clarification has caused a delay, the due date has been extended to April 8, 2019. It is the EEPC's goal to assist the Council with successfully completing this process.

The EEPC thanks the Council for its role in implementing equal employment opportunities in the City of New York.

Respectfully,

A handwritten signature in black ink, appearing to read "Malini Cadambi Daniel".

Malini Cadambi Daniel
Commissioner

Enc.

c: Charise L. Terry, Executive Director, EEPC
Nicole Benjamin, Principal EEO Professional